

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

June 20, 2013



Planning Variance PV13-02: Maria Guzman

CASE DESCRIPTION: a request for approval of a 20-foot front setback variance from the minimum 25-foot front building setback, and a 2.5-foot side setback variance from the minimum 7.5-foot side setback generally required on lots in residential zoning districts of Bryan, to legitimize previous construction of a carport that extends 20-feet toward the front property line and 2.5-feet into the side setback on the subject property

LOCATION: 4534 Woodbend Drive, at the east corner of the intersection of Creekwood and Woodbend Drives

LEGAL DESCRIPTION: Lot 6 in Block 2 of Creekwood Estates – Phase 3

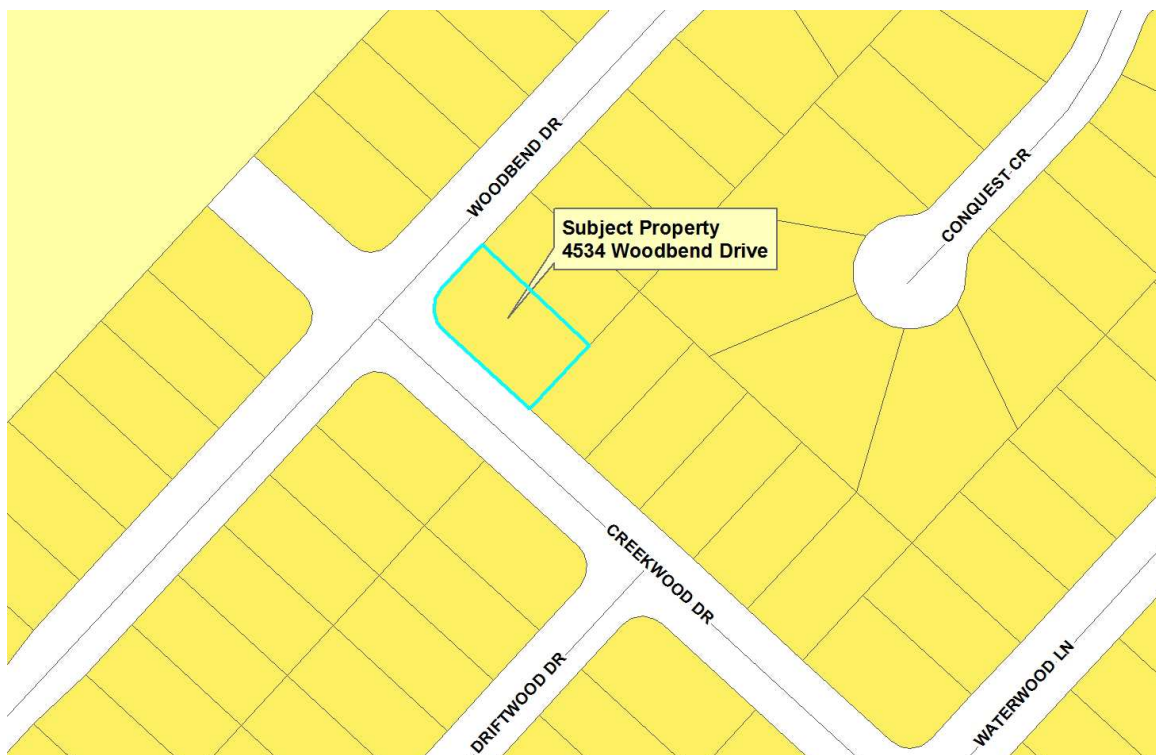
ZONING: Residential District – 5000 (RD-5)

EXISTING LAND USE: single-family home site

APPLICANT: Maria Guzman

STAFF CONTACT: Maggie Dalton, Staff Planner

SUMMARY RECOMMENDATION: Staff recommends **denying** the requested variance.



WOODBEND DRIVE

NORTH

$R=25.00'$
 $D=89^{\circ}49'54''$
 $L=39.20'$
 $T=24.93'$
 $LC=35.30'$
 $CB=N\ 00^{\circ}13'01''\ W$

25.55' 25' B.L.

52.00'

52.14'

COVERED CONCRETE

10.09'

15.48'

ONE-STORY BRICK/WOOD SIDING HOUSE

CONCRETE PATIO

WOOD DECK

LOT 6 BLOCK 2

105.02' 105.00'

N 45°11'05" W

CALLLED N 45°11'30" W

130.00'

CALLLED S 45°11'30" E

S 45°07'41" E

LOT 7 BLOCK 2

CONCRETE PATIO

PORTABLE METAL SHED

7.5' B.L.

5' B.L.

20' UTILITY ESMT. (PLAT)

0.55'

77.00'

76.97'

CALLLED S 44°48'30" W

S 44°48'52" W

LOT 5 BLOCK 2

AERIAL PHOTOGRAPH (JANUARY 2011):



CURRENT PHOTOGRAPHS (JUNE 2013):



subject property



east view, looking toward 4532 Woodbend Drive



looking from Creekwood Drive



4534 Woodbend Drive and neighboring property

BACKGROUND:

The applicant, Ms. Maria Guzman, is requesting a 20-foot variance from the minimum 25-foot front building setback and a 2.5-foot variance from the minimum 7.5-foot side setback required on this property, to legitimize the construction of a carport that extends 20-feet toward the front property line. This 22'x26' carport was constructed without first obtaining city site plan and building permit approval earlier this year. The carport was reported to the City Code Enforcement Division as a construction project without building permits. Code Enforcement advised Ms. Guzman to speak to the Planning Department about the carport and setbacks.

The rationale behind building setback requirements is to provide a minimum degree of open space, which homeowners expect and desire in single-family residential environments. The same standards help ensure that a significant amount of open space remains available for a variety of purposes, including exposure of building facades to the street frontage. Setback requirements also help generally prevent overcrowding of land with buildings.

As part of the application, Ms. Guzman stated that the carport was a characteristic of the neighborhood, implying that there are other properties in the neighborhood with existing carports. The existing carport was not constructed within utility easements or on top of any public utilities. Her request is to keep the carport in order to protect her vehicles from sun damage, as two of her vehicles have cracked dashboards as a result of the heat. During a discussion with staff, Ms. Guzman stated that they used the carport on the property next door as a measurement to determine where she should build her carport. She stated she was unaware of the required building setbacks as the neighborhood has many existing carports that extend toward the street.

In June 2013, city staff identified this carport as one of approximately nine carport structures noncompliant with front building setbacks in the Creekwood Estates and Bryan Place North subdivisions.

Four of the nine carports have been located on properties since or before 2002 based on aerial imagery. Six carports were installed by 2004, seven by 2008, and eight by 2011. Of the nine carports in the neighborhood, only one appears to be in compliance with the minimum required front- and side- building setback standards. All of the other carports appear to encroach at least into the minimum required front building setback. A review of building permit records revealed no evidence that building permits were issued for the construction of any of the carports on these other properties. A review of Planning and Zoning Commission records also revealed that no building setback variances for any of the carports on the other eight properties in the neighborhood were ever requested or granted.

Other properties in the neighborhood have attached carports that are completely contained within the required setbacks that are attached to the main structure and are constructed in the same style as the home. Properties on the cul-de-sacs of Driftwood and Hardwood Drives have homes with these attached carports. The two-car carport on the subject property of this request is detached from the single-family house on the same property and located in front of a one-car garage that is attached to the house.

COMPREHENSIVE PLAN:

The City of Bryan adopted the Comprehensive Plan Update in 2007. The plan is the framework for the establishment of zoning and other regulatory tools. The current plan includes policies and recommendations related to the various physical aspects of the community. These aspects are supported by a set of goals and objectives. The Planning and Zoning Commission shall consider the following when making a decision regarding this variance request:

Land Use Issues

Maintaining Neighborhoods – A reoccurring theme was the need to maintain and revitalize Bryan’s neighborhoods. The proposed approaches to this need were varied. Some thought a property maintenance code was in order while others thought a program of incentives could be formulated to assist with reinvestment in targeted areas.

Use-Specific Land Use Policies

- Low Density Residential land serves to provide housing and living units for a variety of people with a range of incomes and needs. It predominantly consists of detached single family dwellings but may consist of other housing types as long as densities remain low; up to 8 dwelling units per acre. These uses should be located in areas that are:
- Protected from but accessible to the major roadway network, commercial establishments, work places and entertainment areas;
 - Accessible to collector and arterial streets, but directly access only local streets; and
 - Not adjacent to major arterials and freeways without adequate buffering and access management.

ANALYSIS:

The Planning and Zoning Commission may authorize a variance from minimum building setback standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);

Minimum building setback standards are intended to help promote and preserve open space and to prevent the overcrowding of land with buildings. Ignoring building setbacks results in the long-term result of land overcrowded with buildings in neighborhoods, which are typically areas within a town in which open space is most appreciated.

If this carport is allowed to extend 20 feet toward the front property line on this property, nearby property owners are likely to request similar variances which the Commission would feel obligated to approve. With regard to the side building setback, if a fence were installed on that side property line, then the distance between the structure and the barrier would only five feet, which may be insufficient space to gain adequate access to the rear of the structure, e.g. in the case of a fire. Staff believes that granting the front and side setback variances in this particular case will have detrimental effects on both the subject property and the general vicinity. If variances from minimum setback standards were granted here routinely, then the long-term result then may be an undesirable overcrowding of land with building mass along the street frontage within the Creekwood Estates Subdivision.

2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;

Staff believes that granting this variance request in the absence of any special conditions which create an unnecessary hardship could have the long-term effect of destabilizing this established neighborhood. The existing home on the subject property has a single-car garage that can provide covered parking for an automobile. Continued enforcement of minimum building setbacks helps provide minimum open space, which is a desirable feature, especially in residential neighborhoods.

3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

Staff believes that setback requirements of the Land and Site Development Ordinance help protect the general public by preventing the crowding of streets with building and providing a clean, orderly streetscape. Staff contends that the public benefit from continued compliance with minimum building setback standards is greater than requiring the applicant to remove the carport that extends 20-feet closer toward the front property line and 2.5-feet into the side setback than generally allowed in this zoning district.

RECOMMENDATION:

Staff recommends **denying** this request for variances.

INFORMATION PROVIDED BY THE APPLICANT ON THE VARIANCE APPLICATION FORM:

Variance
Supplement B



CITY OF BRYAN
The Good Life, Texas Style

The following page should be completed for all variance requests EXCEPT setback variances. Please proceed to the last page if this request is for a setback variance.

Please describe the type of variance being requested:

Kept. We are requesting that the carport build may be kept. We would like to keep the new carport if possible as it was build and where it was build.

Are there special circumstances or conditions affecting the land involved such that the strict application of the ordinance would deprive you reasonable use of the land:

There are no conditions affecting the land involved. No gas or electrical lines are being obstructed by the building. The carport is detached from residence.

Is the variance necessary for the preservation and enjoyment of substantial property rights:

The carport was build to use as protection for our vehicles from weather or sun damage. It's also characteristic of the neighborhood. Two of our vehicles have cracked dashboards because of sun damage.

State how the granting of the variance would not be detrimental to the public health, safety, or welfare or injurious to other property in the area:

Was build
The building on top of our driveway, concrete, slab. It is not obstructing electrical, gas or sewer lines. There are no reasons for health, safety or welfare or injurious to other property in the area caused the building of the carport.

State how this variance will not affect the orderly development of the subject property and/or land in the vicinity in accordance with City of Bryan Ordinances:

The carport was build detached from the house. It was build in a residential area and should not affect the orderly development of the property or land in the vicinity.